

REMARKS

Claim 25 is amended. Claims 25-62 and 65-69 are pending in the application. Claims 27, 34, 41, 44 and 62 are withdrawn from consideration. Claims 25-26, 28-33, 35-40, 42-43, 45-61 and 65-69 are currently under consideration.

The Examiner has indicated that the present Action is made final and that the Applicant's amendments necessitated the new grounds of rejection. However, as indicated to the Examiner during a telephone conversation conducted on November 2, 2005, five of the pending independent claims were not amended in the previous Response (see claims 38, 42, 55, 58 and 66 in the Response dated June 9, 2005). Since new grounds of rejection, relying upon newly cited art, are presented with respect to these non-amended independent claims, the finality of the Action is premature.

During the telephone conversation of November 2, 2005, request was made for withdrawal of the finality of the present Action. The Examiner indicated that rather than issuing a supplemental action withdrawing the finality, applicant must request withdrawal of the premature finality in the written response to the Action. Accordingly, the present Response does not accompany filing of a Request for Continued Examination.

Applicant hereby asserts that the finality of the September 13, 2005 Action is premature for the reasons set forth above. Withdrawal of the finality is requested. The present Response is being filed within two months of the mailing date of the "Final" Action.

In the event that the present Response is treated as a response after final, an appropriate advisory action is requested to afford applicant the opportunity to submit an RCE and contest the finality of the present Action.

Claims 25-26, 28-33, 35-40, 42-43, 45-61 and 65-69 stand rejected under 35 U.S.C.

§ 103(a) as being unpatentable over Shindo, U.S. Patent No. 5,667,665, in combination with Miller, U.S. Patent No. 5,145,757. The Examiner is reminded by direction to MPEP § 2143 that a proper obviousness rejection has the following three requirements: 1) there must be some suggestion or motivation to modify or combine reference teachings; 2) there must be a reasonable expectation of success; and 3) the combined references must teach or suggest all of the claim limitations. Claims 25-26, 28-33, 35-40, 42-43, 45-61 and 65-69 are allowable over Shindo in combination with Miller for at least the reason that the references, individually or as combined, fail to disclose or suggest each and every element in any of those claims and fail to provide a reasonable expectation of achieving the claimed invention.

As amended, independent claim 25 recites a high-purity cobalt material having a total non-cobalt metallic content of less than 50 ppm and including a detectable amount of at least one of P and W. Shindo discloses cobalt materials containing a various amount of K, Na, H, Ni, U, Th, C, O and Na (Table 1; Table 2; column 7, lines 2-9; Table 3 and Table 4). Shindo does not disclose or suggest the claim 5 recited material containing a detectable amount of at least one of P and W. As indicated at page 2 of the present Action, Miller is relied upon as disclosing elements that can be present as impurities. However, Miller does not disclose or suggest the claim 25 recited detectable amounts of at least one of P and W within a high-purity cobalt material. Accordingly, the combination of Shindo and Miller does not disclose or suggest the claim 25 recited high-purity cobalt material containing a detectable amount of at least one of P and W. Further, the combination of Shindo and Miller does not provide a basis of a reasonable expectation of achieving the claim 25 recited high-purity cobalt material containing a detectable amount of

any of these recited elements. Accordingly, independent claim 25 is not rendered obvious by the combination of Shindo and Miller and is allowable over these references.

Dependent claims 26 and 28-30 are allowable over Shindo and Miller for at least the reason that they depend from allowable base claim 25.

Independent claim 31 recites a high-purity cobalt material comprising 99.99% cobalt and at least one member of the group consisting of from greater than 0 ppm to less than or equal to 0.2 ppm W, from greater than 0 ppm to less than 0.1 ppm Zn, from greater than 0 ppm to less than or equal to 0.31 ppm Ti, and from greater than 0 ppm to less than 0.01 ppm Pb. Shindo and Miller, considered individually or in combination, fail to disclose or suggest the claim 31 recited high-purity cobalt comprising at least one member of the recited group. Further, the combination of Shindo and Miller fails to provide a reasonable expectation of achieving the claim 31 recited cobalt material. Accordingly, independent claim 31 is not rendered obvious by the combination of Shindo and Miller.

Dependent claims 32-33 and 35-37 are allowable over the combination of Shindo and Miller for at least the reason that they depend from allowable base claim 31.

Each of independent claims 38, 42 and 55 recite cobalt materials containing specified amounts of Ti. As indicated above with respect to independent claim 31, the combination of Shindo and Miller fails to disclose or suggest a high-purity cobalt material having the recited Ti content, and fails to provide a reasonable expectation of achieving the recited cobalt materials. Accordingly, independent claims 38, 42 and 55 are allowable over the combination of Shindo and Miller.

Dependent claims 39-40, 43, 45-54 and 56-57 are allowable over the combination of Shindo and Miller for at least the reason that they depend from corresponding allowable

base claims 38, 42 and 55.

Independent claim 58 recites a high-purity cobalt material containing less than 60 ppm O and less than 5 ppm C. Neither Shindo nor Miller discloses or suggests the claim 58 recited oxygen and carbon content. Nor does the combination provide a basis for a reasonable expectation of achieving the recited cobalt material containing less than 60 ppm O and less than 5 ppm C. Accordingly, independent claim 58 is not rendered obvious by the combination of Shindo and Miller and is allowable over these references.

Dependent claims 59-61 and 65 are allowable over Shindo and Miller for at least the reason that they depend from allowable base claim 58.

Independent claim 66 recites a cobalt material comprising from greater than 0 to 0.1 ppm Zn. As discussed above with respect to independent claim 31, the combination of Shindo and Miller fails to disclose or suggest the recited cobalt material containing greater than 0 and less than 0.1 Zn. Accordingly, independent claim 66 is not rendered obvious by the combination of Shindo and Miller and is allowable over these references.

Dependent claims 67-69 are allowable over Shindo and Miller for at least the reason that they depend from allowable base claim 66.

For the reasons discussed above, claims 25-26, 28-33, 35-40, 42-43, 45-61 and 65-69 are allowable. Accordingly, applicant respectfully requests formal allowance of such claims in the Examiner's next action.

Respectfully submitted,

Dated:

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By:

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